

105TH CONGRESS  
1ST SESSION

# H. R. 750

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IN THE SENATE OF THE UNITED STATES

MARCH 12, 1997

Received; read twice and referred to the Committee on Foreign Relations

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## AN ACT

To support the autonomous governance of Hong Kong after  
its reversion to the People's Republic of China.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Hong Kong Reversion  
3 Act”.

4 **SEC. 2. STATEMENT OF PURPOSE.**

5       The purpose of this Act is to support the autonomous  
6 governance of Hong Kong and the future well-being of the  
7 Hong Kong people by ensuring the continuity of United  
8 States laws with respect to Hong Kong after its reversion  
9 to the People’s Republic of China on July 1, 1997, and  
10 to outline circumstances under which the President of the  
11 United States could modify the application of United  
12 States laws with respect to Hong Kong if the People’s Re-  
13 public of China fails to honor its commitment to give the  
14 Special Administrative Region of Hong Kong a high de-  
15 gree of autonomy.

16 **SEC. 3. FINDINGS.**

17       The Congress makes the following findings:

18           (1) The Joint Declaration of the Government of  
19 the United Kingdom of Great Britain and Northern  
20 Ireland and the Government of the People’s Repub-  
21 lic of China on the Question of Hong Kong, done at  
22 Beijing on December 19, 1984, is a binding inter-  
23 national agreement which sets forth the commit-  
24 ments made by both governments on the reversion of  
25 Hong Kong to the People’s Republic of China on  
26 July 1, 1997.

1           (2) The People’s Republic of China in the Joint  
2       Declaration pledges, among other things, that “the  
3       Hong Kong Special Administrative Region will enjoy  
4       a high degree of autonomy, except in foreign and  
5       defence affairs. . .,” that basic human rights and  
6       freedoms “will be ensured by law. . .,” and that  
7       “[t]he legislature of the Hong Kong Special Admin-  
8       istrative Region shall be constituted by elections.”.

9           (3) Senior government officials of the People’s  
10      Republic of China have repeatedly assured a smooth  
11      transfer of Hong Kong to Chinese sovereignty, a  
12      successful implementation of the “one country, two  
13      systems” policy, long-term prosperity for Hong  
14      Kong, and continued respect for the basic rights of  
15      the Hong Kong people.

16          (4) Despite general assertions guaranteeing the  
17      autonomous governance of Hong Kong, several offi-  
18      cial acts and statements by senior officials of the  
19      Government of the People’s Republic of China re-  
20      flect an attempt to infringe upon the current and fu-  
21      ture levels of autonomy in Hong Kong. These acts  
22      or statements include, but are not limited to—

23                  (A) initial proposals, which were later  
24      withdrawn, by officials of the Government of

1 the People's Republic of China to obtain con-  
2 fidential files on civil servants of the Hong  
3 Kong Government or require such civil servants  
4 to take "loyalty oaths";

5 (B) the decision of the Government of the  
6 People's Republic of China to dissolve the  
7 democratically elected Legislative Council on  
8 July 1, 1997, and the appointment of a provi-  
9 sional legislature in December of 1996;

10 (C) the delineation by officials concerning  
11 the types of speech and association which will  
12 be permitted by the Government of the People's  
13 Republic of China after the reversion;

14 (D) initial warnings, which were later with-  
15 drawn, to religious institutions not to hold cer-  
16 tain gatherings after the reversion; and

17 (E) the decision on February 23, 1997, of  
18 the Standing Committee of the National Peo-  
19 ple's Congress of the People's Republic of  
20 China to repeal or amend certain Hong Kong  
21 ordinances, including the Bill of Rights Ordi-  
22 nance, the Societies Ordinance of 1992 (relat-  
23 ing to freedom of association), and the Public  
24 Order Ordinance of 1995 (relating to freedom  
25 of assembly).

1           (5) The reversion of Hong Kong to the People's  
2       Republic of China has important implications for  
3       both United States national interests and the inter-  
4       ests of the Hong Kong people. The United States  
5       Government has a responsibility to ensure that Unit-  
6       ed States interests are protected during and after  
7       this transition, and it has a profound interest in en-  
8       suring that basic and fundamental human rights of  
9       the Hong Kong people are also protected.

10          (6) The United States-Hong Kong Policy Act of  
11       1992 sets forth United States policy concerning  
12       Hong Kong's reversion to the People's Republic of  
13       China on July 1, 1997, and Hong Kong's special  
14       status as a Special Administrative Region of that  
15       country. It ensures the continuity of United States  
16       laws regarding Hong Kong while establishing a  
17       mechanism in section 202 of that Act whereby the  
18       President can modify the application of United  
19       States laws with respect to Hong Kong if the Presi-  
20       dent "determines that Hong Kong is not sufficiently  
21       autonomous to justify treatment under a particular  
22       law of the United States, or any provision thereof,  
23       different from that accorded the People's Republic  
24       of China".

1           (7) One of the principal purposes of the Con-  
2           gress in enacting the United States Hong Kong Pol-  
3           icy Act of 1992 was to maintain Hong Kong's au-  
4           tonomy by ensuring that the United States will con-  
5           tinue to treat Hong Kong as a distinct legal entity,  
6           separate and apart from the People's Republic of  
7           China, for all purposes, in those areas in which the  
8           People's Republic of China has agreed that Hong  
9           Kong will continue to enjoy a high degree of auton-  
10          omy, unless the President makes a determination  
11          under section 202 of that Act.

12          (8) Although the United States Government  
13          can have an impact on ensuring the future auton-  
14          omy of the Hong Kong Government and in protect-  
15          ing the well-being of the Hong Kong people, ulti-  
16          mately the future of Hong Kong will be determined  
17          by the willingness of the Government of the People's  
18          Republic of China to maintain the freedoms now en-  
19          joyed by the people of Hong Kong and to rely on the  
20          people of Hong Kong to govern themselves.

21 **SEC. 4. CONGRESSIONAL DECLARATIONS.**

22          The Congress makes the following declarations:

23               (1) Recognizing that the United States Govern-  
24               ment and the Hong Kong Government have long en-  
25               joyed a close and beneficial working relationship, for

1 example between the United States Customs Service,  
2 the Federal Bureau of Investigation, the Drug En-  
3 forcement Administration, the Immigration and Nat-  
4 uralization Service, the Secret Service, and their cor-  
5 responding agencies of the Hong Kong Government,  
6 the United States urges the two governments to con-  
7 tinue their effective cooperation.

8 (2) Recognizing that the preservation of Hong  
9 Kong's autonomous customs territory has important  
10 security and commercial implications for the United  
11 States and the people of Hong Kong, the United  
12 States calls upon the People's Republic of China to  
13 fully respect the autonomy of the Hong Kong cus-  
14 toms territory.

15 (3) Recognizing that Hong Kong has histori-  
16 cally been an important port of call for United  
17 States naval vessels, the United States urges the  
18 Government of the People's Republic of China to  
19 consider in a timely and routine manner United  
20 States requests for port calls at Hong Kong.

21 (4) Recognizing that Hong Kong enjoys a ro-  
22 bust and professional free press with important

1 guarantees on the freedom of information, the Unit-  
2 ed States declares that a free press and access to in-  
3 formation are fundamentally important to the eco-  
4 nomic and commercial success of Hong Kong and  
5 calls upon the Government of the People's Republic  
6 of China to fully respect these essential rights of the  
7 Hong Kong people.

8 (5) Recognizing that the first fully democratic  
9 elections of a legislature in Hong Kong took place  
10 in 1995, following nearly 150 years of colonial rule,  
11 the United States recognizes that the Joint Declara-  
12 tion of 1984 requires that the Special Administrative  
13 Region legislature "shall be constituted by elec-  
14 tions", declares that the failure to have an elected  
15 legislature would be a violation of the Joint Declara-  
16 tion of 1984, and calls upon the Government of the  
17 People's Republic of China to honor its treaty obli-  
18 gations.

19 (6) Recognizing that the United Kingdom belat-  
20 edly reformed Hong Kong laws with respect to the  
21 civil rights of the Hong Kong people, the Hong  
22 Kong people have nevertheless long enjoyed essential  
23 rights and freedoms as enumerated in the Universal  
24 Declaration of Human Rights; therefore, the United  
25 States declares that the decision of the National



1 People's Congress to repeal or amend certain ordi-  
2 nances is a serious threat to the Hong Kong people's  
3 continued enjoyment of their freedom of association,  
4 speech, and other essential human rights, unless  
5 those rights are reestablished no later than July 1,  
6 1997, and calls upon the National People's Congress  
7 to reconsider its decision.

8 (7) Recognizing that under the terms of the  
9 Joint Declaration of 1984 the provisions of the  
10 International Covenant on Civil and Political Rights  
11 will continue to apply in Hong Kong, the United  
12 States welcomes the public statement by the Chief  
13 Executive-designate of Hong Kong that the legisla-  
14 tion which will replace repealed or amended sections  
15 of the Societies Ordinance and Public Order Ordi-  
16 nance will be the subject of public consultation, and  
17 urges that the new legislation should reflect both the  
18 clearly expressed wishes of the people of Hong Kong  
19 and the provisions of the International Covenant on  
20 Civil and Political Rights.

21 (8) Recognizing that Hong Kong currently  
22 maintains an efficient capitalist economy and trade  
23 system by strictly adhering to the rule of law, by  
24 honoring the sanctity of contract, and by operating

1 without corruption and with minimum and trans-  
2 parent regulation, the United States calls upon the  
3 Government of the People's Republic of China to  
4 fully respect the autonomy and independence of the  
5 chief executive, the civil service, the judiciary, the  
6 police of Hong Kong, and the Independent Commis-  
7 sion Against Corruption.

8 **SEC. 5. PRESIDENTIAL DETERMINATION UNDER SECTION**  
9 **202 OF THE UNITED STATES-HONG KONG POL-**  
10 **ICY ACT OF 1992 AND ADDITIONAL REPORT-**  
11 **ING REQUIREMENTS.**

12 (a) IN GENERAL.—In determining whether “Hong  
13 Kong is not sufficiently autonomous to justify treatment  
14 under a particular law of the United States, or any provi-  
15 sion thereof, different from that accorded the People's Re-  
16 public of China,” as required by section 202(a) of the  
17 United States-Hong Kong Policy Act of 1992, the Presi-  
18 dent of the United States, based upon the assessments  
19 made pursuant to subsection (b) of this section, as well  
20 as other information included in the reports submitted  
21 under section 301 of the United States-Hong Kong Policy  
22 Act of 1992, shall consider the performance of the Hong  
23 Kong Government and the actions of the Government of  
24 the People's Republic of China.

1 (b) REQUIREMENTS FOR REPORTS TO CONGRESS.—

2 The Secretary of State shall include, in each report re-  
3 quired by section 301 of the United States-Hong Kong  
4 Policy Act of 1992, the following:

5 (1) SUCCESSFUL AND TIMELY CONCLUSION OF  
6 AGREEMENTS AND TREATIES.—An assessment by  
7 the Secretary of State of whether the Hong Kong  
8 Government or the People’s Republic of China, or  
9 both, as the case may be, have cooperated with the  
10 United States Government in securing the following  
11 agreements or treaties:

12 (A) A bilateral investment treaty.

13 (B) An extradition treaty.

14 (C) An agreement on consular access in  
15 Hong Kong for United States citizens com-  
16 parable to that provided for in the consular con-  
17 vention between the United States and the Peo-  
18 ple’s Republic of China.

19 (D) An agreement to preserve the United  
20 States consulate, with privileges and immunities  
21 for United States personnel.

22 (E) A mutual legal assistance agreement.

23 (F) A prison transfer agreement.

24 (G) A civil aviation agreement.

1           (2) CONTINUED COOPERATION FROM THE  
2 AGENCIES OF THE HONG KONG GOVERNMENT.—An  
3 assessment by the Secretary of State of whether  
4 agencies of the Hong Kong Government continue to  
5 cooperate with United States Government agencies.  
6 The Secretary of State shall cite in the report any  
7 evidence of diminished cooperation in the areas of  
8 customs enforcement, drug interdiction, and pros-  
9 ecution and prevention of money laundering, coun-  
10 terfeiting, credit card fraud, and organized crime.

11           (3) PRESERVATION OF GOOD GOVERNANCE AND  
12 RULE OF LAW IN HONG KONG.—An assessment by  
13 the Secretary of State of whether the Hong Kong  
14 Government remains autonomous and relatively free  
15 of corruption and whether the rule of law is re-  
16 spected in Hong Kong. The Secretary of State shall  
17 cite in the report any—

18                   (A) efforts to annul or curtail the applica-  
19 tion of the Bill of Rights of Hong Kong;

20                   (B) efforts to prosecute for violations of, or  
21 broaden the application of, laws against trea-  
22 son, secession, sedition, and subversion;

23                   (C) acts or threats against nonviolent civil  
24 disobedience;

1 (D) interference in the autonomy of the  
2 chief executive, the civil service, the judiciary,  
3 or the police;

4 (E) increased corruption in the Hong Kong  
5 Government; and

6 (F) efforts to suppress freedom of the  
7 press or restrict the free flow of information.

8 (4) PRESERVATION OF THE AUTONOMY OF THE  
9 CUSTOMS TERRITORY OF HONG KONG.—An assess-  
10 ment by the Secretary of State of whether the cus-  
11 toms territory of Hong Kong is administered in an  
12 autonomous manner. The Secretary of State shall  
13 cite in the report any—

14 (A) failure to respect United States textile  
15 laws and quotas;

16 (B) failure to enforce United States export  
17 control laws or export license requirements;

18 (C) unauthorized diversions from Hong  
19 Kong of high technology exports from the Unit-  
20 ed States to Hong Kong;

21 (D) unprecedented diversion of Chinese ex-  
22 ports through Hong Kong in order to attain  
23 preferential treatment in United States mar-  
24 kets; and

1 (E) misuse of the customs territory of  
2 Hong Kong to implement the foreign policy or  
3 trade goals of the Government of the People's  
4 Republic of China.

5 **SEC. 6. EXTENSION OF CERTAIN PRIVILEGES, EXEMPTIONS,**  
6 **AND IMMUNITIES TO HONG KONG ECONOMIC**  
7 **AND TRADE OFFICES.**

8 (a) APPLICATION OF INTERNATIONAL ORGANIZA-  
9 TIONS IMMUNITIES ACT.—The provisions of the Inter-  
10 national Organizations Immunities Act (22 U.S.C. 288 et  
11 seq.) may be extended to the Hong Kong Economic and  
12 Trade Offices in the same manner, to the same extent,  
13 and subject to the same conditions as such provisions may  
14 be extended to a public international organization in which  
15 the United States participates pursuant to any treaty or  
16 under the authority of any Act of Congress authorizing  
17 such participation or making an appropriation for such  
18 participation.

19 (b) APPLICATION OF INTERNATIONAL AGREEMENT  
20 ON CERTAIN STATE AND LOCAL TAXATION.—The Presi-  
21 dent is authorized to apply the provisions of Article I of  
22 the Agreement on State and Local Taxation of Foreign  
23 Employees of Public International Organizations, done at  
24 Washington, D.C. on April 21, 1994, to the Hong Kong  
25 Economic and Trade Offices.

1       (c) DEFINITION.—The term “Hong Kong Economic  
2 and Trade Offices” refers to Hong Kong’s official eco-  
3 nomic and trade missions in the United States.

Passed the House of Representatives March 11,  
1997.

Attest:

ROBIN H. CARLE,  
*Clerk.*